

## **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and Alfred Benesch & Company, hereinafter "Consultant" (collectively, the "Parties").

City intends to construct an improvement project (hereinafter called the "Project") in Olathe, Kansas, described as follows:

### **135th Street and Pflumm Road Intersection Improvements** **Project No. 3-C-110-20**

The Project is more fully described in **Exhibit A** (attached hereto and incorporated herein by reference).

By executing this Agreement, Consultant represents to City that Consultant is professionally qualified to perform services on this Project and is licensed to practice engineering by all public entities having jurisdiction over Consultant and the Project.

### **SECTION I - DEFINITIONS**

As used in this Agreement, the following terms will have the following meanings unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words will have a meaning parallel thereto. All terms defined in the most recent version of the Engineers Joint Contract Documents Committee (EJCDC) Standard General Conditions of the Construction Contract (the "General Conditions") adopted by City will have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement will prevail in the interpretation of this Agreement.

**"Additional Services"** means services in addition to those listed in **Exhibit B**.

**"City"** means the City of Olathe, Kansas, a municipal corporation duly organized under the laws of the State of Kansas, its employees, appointees, and officers.

**"Consultant"** means the company or individual identified above, herein, and its affiliates, subsidiaries, employees, agents, and assigns.

**"Construction Cost"** means and includes but is not limited to the cost of the entire construction of the Project, including all supervision, materials, supplies, labor, tools, equipment, transportation and/or other facilities furnished, used or consumed in connection with the Project, without deduction on account of penalties, liquidated damages or other amounts withheld from payment to a construction contractor or contractors, but such cost will

not include Consultant's fee, or any other payments to Consultant as set forth herein, and will not include cost of land or rights-of-way and easement acquisition.

"Contract Documents" means those documents so identified in the Agreement for Construction of this Project including all Consultant Documents.

"Consultant Documents" means all documents required or reasonably implied by the nature of the scope of services to be performed by Consultant hereunder, including, but not limited to, plans, specifications, drawings, tracings, designs, calculations, sketches, models and reports.

"Professional Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services required of Consultant under this Agreement including any Additional Services.

"Project" is as above described.

"Project Manager" means the person employed and designated by City to act as the City's representative for the Project.

"Right-of-Way" and "Easements" means and includes the public street, highway, or road right-of-way and any other land dedicated to or otherwise subject to public use.

"Subsurface Borings and Testing" means borings, probings and subsurface explorations, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all the foregoing.

"Traffic Control Plan" means a specific plan that includes but is not limited to signing; application and removal of pavement markings; construction sequencing and scheduling; methods and devices for delineation and channelization; placement and maintenance of devices; traffic regulation; and inspection made in accordance with the City's technical specifications.

## **SECTION II - COMPENSATION**

### **A. FEES & EXPENSES**

1. Total Fee: City agrees to pay Consultant an amount not to exceed Three Hundred Fifty-Three Thousand, Eight Hundred Dollars (\$353,800.00), including reimbursable expenses as described herein. The fee is based on the performance of the scope of services outlined in this Agreement, including **Exhibit B** attached hereto and incorporated by reference, and will be billed by Consultant using hourly rates and equipment charges as set forth in **Exhibit C** attached hereto and incorporated by reference, plus reimbursable expenses as set forth below. All bills

will be submitted to City monthly as provided herein. Payment to Consultant will not exceed the following percentages in each phase of the Project without prior written consent of City

2. Reimbursable Expenses: Consultant will be reimbursed at the actual cost, not to exceed a total expense of Two Thousand, Two Hundred Seventy-One Dollars (\$2,271.00) for the following expenses related only to the Project: (a) expense of transportation in connection with the Project; (b) expenses in connection with authorized out-of-town travel; (c) long-distance communications; (d) expenses of printing and reproductions; (e) postage and facsimile transmissions; (f) expenses of renderings and models requested by City, and (g) other costs as authorized by City in writing as set forth herein.

**B. SERVICES BEYOND THE SCOPE OF SERVICES**

1. Change in Scope: For substantial modifications in authorized Project scope, substantial modifications of drawings, or substantial modifications to specifications previously accepted by City, when requested by City and through no fault of Consultant, Consultant will be compensated for time and expense required to incorporate such modifications at Consultant's standard hourly rates per **Exhibit C**; provided, however, that any increase in fee or extension of time for Consultant to complete the services must be approved by City in writing. Consultant will correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to Consultant's failure to meet the Standard of Care.
2. Additional Services: Consultant will provide Additional Services authorized by a supplemental agreement executed in writing by the Parties. Prior to commencing any Additional Services, Consultant must submit a proposal outlining the Additional Services to be provided, estimation of total hours, completion date, and a maximum fee based upon the hourly rate schedule attached hereto as **Exhibit C**. Such Additional Services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Section III, preparing changes in plans ordered by City or made necessary by causes beyond the control of Consultant, providing services necessitated in the event the Professional Services are suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by Consultant, and providing any other special services not otherwise covered by this Agreement which may be requested by City to complete the Project. Payment to Consultant as compensation for Additional Services will be in accordance with the hourly rate schedule attached as **Exhibit C**.
3. Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. If Consultant is requested, in writing, by City, to appear as a witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as **Exhibit C**.

Consultant will not be paid extra by City if Consultant's appearance is to defend its Professional Services.

**C. BILLING & PAYMENT**

1. Billing: Consultant may bill City monthly for completed Professional Services, including reimbursable expenses. The bill submitted by Consultant must itemize the Professional Services and reimbursable expenses for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.
2. City's Right to Withhold Payment: In the event City becomes credibly informed that any representations of Consultant provided in its monthly billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consultant until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact will be made known to Consultant immediately. Consultant will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City will be paid to Consultant in accordance with the contract payment procedures.
3. Progress Reports: A progress report must be submitted with each monthly pay request indicating the percentage of Professional Services completed to date. This report will serve as support for payment to Consultant.

**D. SCHEDULE**

All services must be completed on or before the milestones as provided in Exhibit A.

**SECTION III - RESPONSIBILITIES OF CONSULTANT**

Consultant will perform the Professional Services in all phases of the Project to which this Agreement applies as herein provided and which are required for the construction of the Project as described below:

**A. PRELIMINARY DESIGN PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibits B and D**, attached hereto and incorporated by reference.
2. Preliminary Design Documents: Consultant will furnish City copies of the above preliminary design documents per the City of Olathe Technical Specifications and Design Criteria for Public Improvements, unless otherwise noted in **Exhibit B**.

3. Preliminary Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on the preliminary design and at subsequent design review submittals as specifically requested by City. Consultant's estimate of probable Construction Cost is to be made based on Consultant's experience and qualifications and represent Consultant's best judgment as an experienced and qualified design professional, familiar with the construction industry.
4. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for construction is not sufficient to adequately design and construct the improvement as requested.
5. Permits and Right-of-Way: These Professional Services will include preparation of plans, exhibits and applications required for securing approvals, licenses, or permits from governmental or corporate agencies or authorities, and providing City with documents for right-of-way and/or easement acquisition necessary for the construction of the improvement, unless eminent domain proceedings are required to secure the right-of-way and/or easements. Consultant will comply with the conditions set out in the Land Acquisition Checklist for Consultant Projects as in **Exhibit D**. City will be responsible for acquiring the necessary Right-of-Way or Easements, unless otherwise agreed upon between City and Consultant. A property map of the areas needed to be acquired, and other necessary information related to such acquisition, will be provided by Consultant with copies of the preliminary construction plans to the Project Manager. It is recognized that such information cannot be provided for some tracts until the completion of the final construction plans. Consultant will also provide any necessary ownership and encumbrance (O&E) documents.

**B. FINAL DESIGN PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibit B** attached hereto and incorporated by reference.
2. Final Design Documents: Consultant will furnish City copies of the final design plans per the City of Olathe Technical Specifications and Design Criteria for Public Improvements unless otherwise noted in **Exhibit B**.
3. Contract Documents: Consultant will prepare for City all Project contract agreement forms, final design plans, general conditions and supplementary conditions, bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents requested by City, unless such documents are provided by City.
4. Final Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on final design. This estimate is commonly known as the "Engineer's Estimate" and will be used as the basis for construction contract award. The Engineer's

Estimate must be sealed and provided by a professional engineer licensed by the State of Kansas. Since Consultant has no control over the cost of labor, materials, or equipment furnished by others not under contract to Consultant, or over the resources provided by others not under contract to Consultant to meet Project schedules, Consultant's opinion of probable costs and of Project schedules for construction may be made based on experience and qualifications as a professional engineer. Consultant does not guarantee that proposals, bids, or actual Project costs will not vary from Consultant's opinions of probable cost or that actual schedules will not vary from Consultant's projected schedules.

5. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for the Project is not sufficient to cover all Project costs, including but not limited to, construction, right-of-way and easement acquisition, inspection, and testing.

#### **C. BIDDING PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibit B**, attached hereto and incorporated by reference.
2. Bids Exceeding Cost Estimate: If all bids exceed Consultant's Final Cost Estimate, Consultant, at the request of City and for no additional cost, will prepare a report for City identifying why all the bids exceed the estimate. City has four (4) options if all bids exceed Consultant's estimate. City may: (1) give written approval of an increase in the Project cost up to a maximum of 7% above the authorized total; (2) authorize rebidding of the Project; (3) terminate the Project and this Agreement; or (4) cooperate in revising the Project scope or specifications, or both, as necessary to reduce the construction cost.

#### **D. CONSTRUCTION PHASE**

1. In-House Administration and Inspection: It is understood that City will provide full-time, in-house administration and inspection of the construction Project and the work of the construction contractor at City's expense, unless otherwise agreed upon in writing by the Parties. Consultant will assist City by providing general administration and inspection of the work of the construction contractor as requested by City by conducting periodic inspections of the construction contractor's work during construction and will assist City in a final inspection of the construction Project after completion of the work by the construction contractor. Consultant will also check shop drawings and assist City in making interpretation of plans and specifications and reviewing pay estimates for making payments to the construction contractor.
2. Services: The Professional Services provided during this phase are set out in **Exhibit B**, both attached hereto and incorporated by reference.

3. Additional Drawings: If during construction, situations arise which require additional drawings or details, Consultant agrees to provide such additional drawings or details at no cost to City when the additional drawings or details are required to correct Consultant's failure to meet the Standard of Care. If such situations occur through no fault of Consultant, or are beyond Consultant's control, both Parties agree to negotiate an equitable payment to Consultant for Consultant's Professional Services rendered, which will be accomplished through a Change Order.
4. Staking: Unless otherwise provided, staking must be included in the bid specifications to be performed by the construction contractor.
5. Notice of Defects: If, based on Consultant's involvement during the construction phase, Consultant observes or otherwise becomes aware of any defect in the work, Consultant will give prompt written notice to City of such defects and their approximate location on the Project. However, Consultant will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions, inspections and programs in connection with the work, since these are solely the construction contractor's responsibility under the contract for construction to be entered into with City. Consultant will not be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the Contract Documents. Consultant will not have control over or charge of acts or omissions of any construction contractor, any of a construction contractor's subcontractors, or any of the agents or employees of a construction contractor selected by City to construct the Project.
6. Shop Drawings: Consultant will review and take appropriate action on the chosen construction contractor's shop drawings and samples, and the results of tests and inspections and other data which each construction contractor is required to submit for the purposes of reviewing for compliance with the design concept and conformance with the requirements of the Contract Documents and the City of Olathe Technical Specifications and Design Criteria for Public Improvements.

#### **E. GENERAL DUTIES AND RESPONSIBILITIES**

1. Personnel: Consultant will assign only qualified personnel to perform any service concerning the Project as identified in Consultant's response to the Request for Proposals. At the time of execution of this Agreement, the Parties anticipate that the following individual will perform as the principal on this Project: Robert R. Krewson, PE, Senior Vice President. As principal on this Project, this person will be the primary contact with the City's Project Manager and will have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, such individual will perform the function of principal on this Project. For the

Professional Services rendered hereunder, Consultant, and any of its subcontractors, will employ engineers, architects, landscape architects, and surveyors licensed by the Kansas State Board of Technical Professions.

2. Service By and Payment to Others: Any services authorized in writing by City and performed by any party other than Consultant or its subcontractors (a "Third Party") in connection with the proposed Project will be contracted for and paid for by City. In addition to payments for the Third Party's professional services, this may also include necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other services required or requested by City or Consultant which are not defined within the scope of services of Consultant as set forth herein. Fees for such extra services will be subject to negotiation between City and the Third Party. Fees will be approved by City in writing prior to the execution of any extra services. Although Consultant may assist City in procuring such services of Third Parties, Consultant will in no way be liable to either City or such Third Parties in any manner whatsoever for such services or for payment thereof.
3. Subcontracting or Assignment of Services: Consultant may not subcontract or assign any of the Professional Services to be performed under this Agreement without first obtaining the written approval of City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement. Any person or firm proposed for subcontracting Professional Services under this Agreement will maintain throughout the duration of the Agreement, insurance as provided in Section V.D.2. herein, and will additionally maintain Professional Liability insurance in a minimum amount of \$1,000,000 per claim and in the aggregate and provide City with an insurance certificate showing the insurance limits provided by Consultant's subconsultant. Any services completed by a City-approved subcontractor of Consultant pursuant to this Agreement may not be increased more than ten percent (10%) over the actual cost of the services.
4. Endorsement: Consultant must sign and seal all final plans, specifications, estimates and engineering data furnished by Consultant. Any review or approval by City of any documents prepared by Consultant, including but not limited to the plans and specifications, will be solely for determining whether such documents are consistent with the City of Olathe Technical Specifications and Design Criteria for Public Improvements and may not be construed as City assuming responsibility for the accuracy, adequacy, fitness, suitability and coordination of Consultant's services and deliverables. No review of such documents will relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its services and deliverables.



5. Inspection of Documents: Consultant must maintain all Project records for inspection by City at reasonable times and places upon written request during the contract period and for three (3) years from the date of final payment.
6. Standard of Care: Consultant will exercise the same degree of care, skill, and diligence in the performance of the Professional Services as is ordinarily possessed and exercised by a professional engineer under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the Professional Services necessary to correct errors and omissions which are caused by Consultant's negligence.

#### **SECTION IV - CITY OF OLATHE'S RESPONSIBILITIES**

##### **A. COMMUNICATION**

City will provide to Consultant information and criteria regarding City's requirements for the Project; examine and timely respond to Consultant's submissions; and give written notice to Consultant, who will respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

##### **B. ACCESS**

City will provide access for Consultant to enter public and private property related to the Project and performance of Consultant's obligations under this Agreement.

##### **C. DUTIES**

City will perform the various duties and services in all phases of the Project which are outlined and designated in **Exhibit B** as City's responsibility.

##### **D. PROGRAM AND BUDGET**

City will provide all relevant information reasonably required for Consultant to perform its obligations herein, including but not limited to City's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary design criteria for the Project.

##### **E. ADMINISTRATIVE SERVICES**

City will furnish all City-related legal, accounting, insurance and audit services as may be necessary at any time for completion of the Project. However, in no event will any City-related legal, accounting, insurance and or audit services be provided on behalf of Consultant, nor will Consultant serve any other role than as an independent contractor of City.

**F. BOND FORMS**

City will furnish all bond forms required for the Project.

**G. PROJECT REPRESENTATIVE**

City will designate a Project Manager to represent City in coordinating this Project with Consultant. The City's Project Manager will have the authority to transmit instructions and decisions of City.

**SECTION V - GENERAL PROVISIONS**

**A. TERMINATION**

1. Notice: City reserves the right to terminate this Agreement for cause (due to Consultant's failure to substantially perform its obligations hereunder) upon notice if Consultant fails to cure a default in respect of any of its obligations hereunder within fifteen (15) days following receipt of a written notice from the City stating the nature of such default or defaults, or for its convenience and without cause or default on the part of Consultant, by providing fifteen (15) days' written notice of such termination to Consultant. Upon receipt of such notice from City, Consultant will, at City's option as contained in the notice: (1) immediately cease all Professional Services; or (2) meet with City and, subject to City's approval, determine what Professional Services will be required of Consultant in order to bring the Project to a reasonable termination in accordance with the request of City. Consultant will also provide to City copies of all drawings and documents completed or partially completed at the date of termination for which Consultant has been fully paid. If City defaults on its obligations under this Agreement, (due to City's failure to substantially perform its obligations under this Agreement), Consultant must notify City by written notice of its intent to terminate and City will have fifteen (15) days from the date of the notice to cure or to submit a plan for cure acceptable to Consultant. In no event may Consultant terminate the contract solely for its convenience without cause.

Address for Notice:

City of Olathe  
Attn: Scott Ward  
100 E. Santa Fe  
P.O. Box 768  
Olathe, KS 66051-0768

Alfred Benesch & Company (Benesch)  
Attn: Jim Jussel, PE, PTOE  
11010 Haskell Avenue, Ste 200  
Kansas City, KS 66109

2. Compensation for Convenience Termination: If City terminates for its convenience as provided herein, City will compensate Consultant for all Professional Services completed

and accepted and reimbursable expenses incurred prior to the date of its receipt of the termination notice and any additional Professional Services and reimbursable expenses requested by City to bring the Project to reasonable termination. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

3. Compensation for Cause Termination: If City terminates for cause or default on the part of Consultant, City will compensate Consultant for the reasonable cost of Professional Services and reimbursable expenses completed and accepted prior to the date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed. City also retains all its rights and remedies against Consultant including but not limited to its rights to sue for damages, interest and reasonable attorney fees.
4. Incomplete Documents: Neither Consultant nor its subcontractors will be responsible for errors or omissions in documents which are incomplete because of an early termination under this Section, or Consultant having been deprived of the opportunity to complete such documents and prepare them to be ready for construction.
5. Termination for Lack of Funds: If, for whatever reason, adequate funding is not made available to City to support or justify continuation of the level of Professional Services to be provided by Consultant under this Agreement, City may terminate or reduce the amount of Professional Services to be provided by Consultant under this Agreement. In such event, City will notify Consultant in writing at least thirty (30) days in advance of such termination or reduction of Professional Services for lack of funds.

## **B. DISPUTE RESOLUTION**

City and Consultant agree that disputes relative to the Project will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consultant will proceed with the Professional Services as per this Agreement as if no dispute existed, and City will continue to make payment for Consultant's completed Professional Services; and provided further that no dispute will be submitted to arbitration without both Parties' express written consent.

## **C. OWNERSHIP OF CONSULTANT DOCUMENTS**

Consultant will provide City a copy of all final Consultant Documents, including but not limited to prints, reproductions, reports, plans, specifications and related documents, which will become the property of City, if Consultant's copyrighted instruments will remain in the ownership of Consultant if Consultant, at Consultant's sole discretion, may so identify them by appropriate markings. If Consultant is paid in full for its Professional Services, then City may

subsequently reuse these final documents without any additional compensation or agreement of Consultant. However, such reuse without written verification or adaptation by Consultant for the specific purpose intended by City will be at City's sole risk and without liability or legal exposure to Consultant. City does not take any responsibility for the reuse of documents by others. Consultant's pre-existing materials, including pre-existing details, specifications, software, inventions, copyrights, patents, trade secrets, trademarks and other proprietary rights, including ideas, concepts and knowhow of Consultant, that existed before the commencement of the Services and which are included in the documents generated by Consultant under this Agreement (collectively, the Pre-Existing Materials), shall remain the property of Consultant. Consultant grants to the City (as an exception to the transfer and assignment provided in this Agreement) a non-exclusive, world-wide, royalty-free right and license to use the Pre-Existing Materials for completion of the Project.

#### **D. INSURANCE**

1. General: Consultant will maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts as required in **Exhibit E (City of Olathe Insurance Requirements)**. Professional Liability may be written on a "claims made" basis. Consultant will provide certificates of insurance and renewals thereof on forms acceptable to City (**Exhibit F – Certificate of Insurance**). Consultant is required to promptly notify City of a material change or cancellation of any policy listed on the Certificate.
2. Subcontractor's Insurance: If a part of the Professional Services under this Agreement is to be sublet, Consultant will either (a) cover all subcontractors in its insurance policies, or (b) require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss in the minimum amounts designated herein. If Consultant selects option (b), then Consultant agrees to provide the City's Risk Manager a certificate of insurance acceptable to the Risk Manager at least seven (7) days prior to allowing the subcontractor to perform any services on this Project. Consultant agrees that any subcontractor providing services on said Project without providing a certificate of insurance acceptable to the City's Risk Manager will immediately cease all services on said Project and will assume all financial risk associated with such failure thereto.

#### **E. INDEMNITY**

1. Loss: For purposes of indemnification requirements, the term "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto,

which arise out of or are connected with the performance of this Agreement.

2. Indemnification and Hold Harmless: For purposes of this Agreement, Consultant agrees to indemnify and hold harmless City and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness, negligence, or other actionable fault of Consultant or its subcontractors.
3. Comparative Fault & Contributory Negligence: It is a specific element of consideration of this Agreement that the indemnity in Section V.E.2 will apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of City or any Third Party and, further notwithstanding any theory of law including, but not limited to, a characterization of City's or any Third Party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that Consultant's obligation hereunder will not include amounts attributable to the fault or negligence of City or any Third Party for whom Consultant is not responsible.
4. Damage Limitations: The indemnification obligation contained in this Agreement will not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for Consultant or its subcontractors, by the minimum insurance required by this Agreement, nor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
5. Negligence by the City: Consultant is not required hereunder to defend City or its agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence.

**F. AFFIRMATIVE ACTION/OTHER LAWS**

1. Kansas Act Against Discrimination: During the performance of this Agreement, Consultant agrees that:
  - a. Consultant will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, gender, disability, national origin, ancestry, or age;
  - b. in all solicitations or advertisements for employees, Consultant will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
  - c. if Consultant fails to comply with the way Consultant reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Consultant will be deemed to have breached the present contract and it may be

canceled, terminated or suspended, in whole or in part, by City without penalty;

- d. if Consultant is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
  - e. Consultant will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- 2. Exceptions to Applicability: The provisions of this Section will not apply to a contract entered into by City with Consultant if (a) Consultant employs fewer than four (4) employees during the term of such contract; or (b) Consultant's contract with City totals Ten Thousand Dollars (\$10,000) or less in aggregate.
  - 3. Kansas Age Discrimination in Employment Act: Consultant further agrees and acknowledges that it will abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.
  - 4. Kansas Fairness in Public Construction Contract Act: The Parties agree and acknowledge that the services provided under this Agreement are within the scope of the Kansas Fairness in Public Construction Contract Act (K.S.A. 16-1901 et seq.) and that no provision of this Agreement waives, alters, or supersedes any provisions of said Act.

#### **G. ENTIRE AGREEMENT**

This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

#### **H. APPLICABLE LAW, JURISDICTION, AND VENUE**

Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

**I. NO THIRD-PARTY BENEFICIARIES**

Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

**J. INDEPENDENT CONTRACTOR**

Consultant is an independent contractor and not an agent or employee of City.

**K. DELIVERABLES**

1. Project Drawings: Project drawings which are developed by Consultant using a Computer Aided Drafting (CAD) System will be made available to City per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. However, due to the potential that the information set forth on the electronic media could be modified by City, or other City consultants, unintentionally or otherwise, Consultant will remove all indices of its ownership, professional corporation name, seal, and/or involvement from each electronic display. If City provides such electronic media to others for any purpose, City will require the electronic media to be returned to City upon completion of such use. City recognizes that use of such electronic media will be at City's sole risk and without any liability risk or legal exposure by Consultant.
2. Project Documentation: All documentation provided City other than Project drawings will be furnished in either Microsoft Word file format or pdf format.
3. Conformed To Construction Drawings ("As Built" Drawings): Following construction, City and/or construction contractor will provide copies of changes and alterations made in the field during construction to Consultant to provide Conformed To Construction Drawings per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. Consultant may rely on the information provided by City in preparing such documents, subject to the professional standard of care required by this Agreement.

**L. COVENANT AGAINST CONTINGENT FEES**

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation, City may terminate this Agreement without liability or may, in

its discretion, deduct from the Total Fee or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**M. COMPLIANCE WITH LAWS**

Consultant will abide by all applicable federal, state and local laws, ordinances and regulations applicable to the performance of Professional Services at the time the Professional Services are performed. Consultant will secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of the obligations under this Agreement, and will provide City a copy of its certificate of good standing to conduct business in the State of Kansas with this Agreement (**Exhibit G**).

**N. TITLES, SUBHEADS AND CAPITALIZATION**

Titles and subheadings as used herein are provided only as a matter of convenience and will have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals has no legal bearing on the interpretation of such terms.

**O. SEVERABILITY CLAUSE**

If any provision of this Agreement is determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

**P. AMBIGUITY CLAUSE AND HIERARCHY OF INTERPRETATION**

If any ambiguity, inconsistency or conflict arises in the interpretation of this Agreement, the same will be resolved by reference first to the terms and conditions of this Agreement, and any exhibits attached hereto or incorporated by reference as noted below. In the event of any conflict or inconsistency between this Agreement and its exhibits, the following hierarchy of interpretation will apply:

1. This Agreement;
2. Scope of Services (Exhibit B);
3. City's Request for Proposals/Request for Qualifications (incorporated by reference);
4. Consultant's Response to RFP/RFQ (incorporated by reference).

***[The remainder of this page is intentionally left blank.]***



**R. EXECUTION OF CONTRACT**

The parties hereto have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
Michael E. Copeland, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney/Deputy City Attorney/  
Assistant City Attorney

Alfred Benesch & Company (Benesch)

By: Robert R. Krewson

Robert R. Krewson, PE  
Senior Vice President

11010 Haskell Avenue, Ste 200  
Kansas City, KS 66109

**TABLE OF CONTENTS  
OF EXHIBITS**

<b>Exhibit A</b>	<b>Description of Project &amp; Map</b>
<b>Exhibit B</b>	<b>Scope of Services</b>
<b>Exhibit C</b>	<b>Fee &amp; Rate Schedule</b>
<b>Exhibit D</b>	<b>Land Acquisition Checklist for Consultant Projects</b>
<b>Exhibit E</b>	<b>City of Olathe Insurance Requirements</b>
<b>Exhibit F</b>	<b>Certificate of Insurance</b>
<b>Exhibit G</b>	<b>Certificate of Good Standing to Conduct Business in Kansas</b>

## EXHIBIT A

### Description of Project and Map

This project includes design services for intersection modifications of 135<sup>th</sup> Street and Pflumm Road to develop field check, office check and final PS&E plans, including bid phase assistance along with project administration tasks, as outlined in Exhibit B (Scope of Services). The intersection modifications include adding dual left-turn lanes and right-turn lanes for each approach of the intersection, except the westbound approach which already has a right-turn lane. Traffic signal replacements will be completed to accommodate the new geometric lane configurations, along with traffic signal interconnect plans to connect the signal system to Greenwood Street traffic signal. The intersection pavement and project approaches will be milled and overlaid, as shown below, to define the intersection limits. Extension of 5-foot sidewalk will be added to the north and south sides of 135<sup>th</sup> Street to complete the missing segments in the area.



*Project Area and Survey Limits*

## **EXHIBIT B**

### **SCOPE OF SERVICES**

#### **135<sup>th</sup> Street and Pflumm Road Intersection Geometric and Traffic Signal Modification Plans Olathe & Overland Park, KS**

##### **TASK 1 – General Project Tasks**

1. A kickoff meeting will be conducted with the Consultant and the Client to coordinate the project effort. Assumes one (1) meeting with two Benesch members attending the meeting.
2. Coordination meeting with Surveyor on Site.
3. Attend the following project design meetings not otherwise described in other tasks below. Unless otherwise noted, it is assumed that there will be two (2) Benesch attendees at each meeting with minutes provided
  - a. One (1) meeting with Olathe and Overland Park (Concept Layout).
  - b. Attend one (1) meeting with Olathe and Overland Park (Field Check Plans).
  - c. Attend one (1) meeting with Olathe and Overland Park (Office Check Plans).
  - d. Two (2) additional meetings as needed with Olathe (and possibly Overland Park) during design progression.
  - e. Assumes up to three (3) utility coordination meetings hosted at the City of Olathe and up to two (2) meetings with individual utilities; includes two (2) Benesch staff at each meeting with minutes provided
4. Attend up to two (2) meetings with KDOT.
5. Prepare design criteria and prepare design memorandum (if required).

##### **TASK 2 – Traffic Analysis**

###### **Traffic Analysis Assumptions:**

- Existing traffic signal timings to be provided by City of Overland Park. Final signal timings will be provided by Overland Park.

###### **Traffic Analysis Tasks:**

1. Obtain intersection turning movement counts during the peak morning and afternoon commuter periods during one (1) typical weekday. To account for school traffic the traffic count will be completed during the following times:
  - a) 7:00 to 9:00 AM
  - b) 3:00 to 6:00 PM
2. Traffic volume development will be completed to develop the future year 2040 traffic volumes. The 2040 volumes will be generated using the available volumes from the City and historic growth rates.
3. Review and evaluate potential traffic from surrounding undeveloped land.
4. Traffic Analysis will be completed using Synchro/SimTraffic to confirm the intersection geometrics and determine the optimum storage lengths.
5. Develop traffic memorandum to document traffic analysis procedures and findings.
6. Conduct QC/QA of traffic analysis memorandum.

##### **TASK 3 – Conceptual Layout**

1. Develop one (1) preliminary turn lane concept. Concept will be developed on 11x17 sheet using AIMS color aerial.
2. Concepts to depict sidewalk limits and possible Phillips/Magellan entrance changes.
3. Attend one (1) meeting with Phillips 66 stakeholder.

4. Attend one (1) meeting with Magellan stakeholder.
5. Estimate R/W impacts for each concept, if any.
6. Conduct QC/QA of concept documents.

#### **TASK 4 –Survey and Data Collection**

##### **Survey Assumptions:**

- Topographic survey for project area as shown in Exhibit A.
- Does NOT include any contingency for supplemental survey for any areas outside the current defined survey limits or for areas that may change during design.
- Design for the interconnect plans that may fall outside the defined survey area to be completed using AIMS and aerial imagery.

##### **Survey and Data Collection Tasks:**

1. Survey: Benesch will complete a current Topographic Survey of the delineated project limits as identified in Exhibit A. Horizontal control will be established relative to the Kansas State Plane Coordinate System, North Zone NAD83. Vertical control will be in Johnson County Vertical Control Network datum. All Survey activities will be performed with the direct supervision of a Kansas Licensed Professional Surveyor. The topographic data shall be collected in the field using GPS and Total Station survey equipment. The survey data will be processed and plotted using appropriate software to produce a digital map file for use in design software. The survey shall include but not be limited to the following:
  - a) Topographic features of the existing roadway and to a general limit shown in the attached exhibit. Existing surface topographic features to be collected include: shots at pavement tie-in locations, edges of pavement, back of curb, existing lane lines, trees, landscaping, ditch flowlines, and other visible features.
  - b) Storm sewer structures will be opened, and data collected as to size and elevation of pipes.
  - c) Download and process design survey and develop existing surface.
  - d) “One-Call” request will be made to have all utilities marked within the survey limits. Topographic survey to include marked and visible utilities within the project limits. Benesch will make reasonable efforts to obtain utility markings for this area and will document our efforts, but can only survey what is identified and as marked in the field.
  - e) Contact all utilities and request existing utility record drawings and use to approximate facilities in the work area. Utilities will be labeled by provider.
  - f) With the assistance of the Owner’s personnel, traffic signals and all associated wiring and loop detectors shall be located.
  - g) Section, Quarter Section, and adjacent property corners will be recovered and included in the survey to permit accurate plotting of the existing right-of-way. Prepare and submit to governmental agencies a certified land corner record for each section corner recovered and used on this project.
  - h) A minimum of three horizontal and vertical control points will be established on the project site.
2. Title Work: Title work for up to six (6) adjacent properties shall be reviewed and incorporated in the property base file. Current land ownership and existing right-of-way documents shall be obtained by the CONSULTANT using a title company approved by both cities.
3. R/W and Easement Documentation: Prepare and furnish legal descriptions (sealed by Kansas RLS) and companion tract maps for up to six (6) tracts. R/W and Easement documentation shall follow Exhibit D, Land Acquisition Checklist for Consultant Projects.
  - a) Assumes staking up to 6 tracts in the field the location of proposed R/W and easements as part of appraisal and acquisition performed by others. Does not include any restaking.
4. GIS Data: Benesch will supplement survey with City provided GIS information.

5. Existing Plans: Benesch will review and incorporate information from record drawings for abutting projects and subdivisions
6. Prepare base map at 1"=20' scale showing existing information, contours at 2-foot intervals and existing utility information as noted above.
7. Coordinate with City of Olathe and City of Overland Park regarding any deep milling and surface milling/overlay limits.
8. Complete offset staking for utilities where needed, within project limits. Assumes single staking with no restaking.

## **TASK 5 – Field Check Plans**

### **Roadway Design Assumptions:**

- Assumes design and plan requirements will follow City of Olathe Project Procedures Manual
- Design limits include the intersection and each approach as shown in Exhibit A.
- Street Design per City of Olathe and Overland Park standards as appropriate.
- Traffic Signal Design per City of Overland Park Standards (except pole, mast arm, and supporting equipment color which will be Black per current Olathe standards)
- Traffic control assumes daily lane closures on both 135<sup>th</sup> Street and Pflumm Road with all existing lanes open to traffic during peak hour.
- Assumes reconfiguration of existing storm sewer only; does NOT include evaluation of pipe capacity or pavement spread to meet current design requirements.
- Utility coordination.
  - No utility relocation design services. Any required ATMS relocations would be completed as part of Task 5.13.
  - City will provide latest utility contact information
  - Assumes no potholing expenses or effort.
- R/W and easement negotiation services are not included. To be completed by City or their representatives.
- No pavement design or geotechnical services are included; assumes use/widening of existing pavement section.
- Does not include design or plan effort related to underdrains
- Assumes the following geometrics with U-turns restricted:
  - Additional northbound left-turn lane
  - Northbound right-turn lane
  - Additional southbound left-turn lane
  - Southbound right-turn lane
  - Additional eastbound left-turn lane
  - Eastbound right-turn lane
  - Additional westbound left-turn lane
  - Accommodate existing bike lanes for south leg of intersection
  - Accommodate future bike lane for north leg of intersection

### **Field Check Plan Preparation Tasks:**

1. Develop typical sections.
2. General notes
3. Survey reference sheet
4. Set proposed / existing horizontal and vertical alignment.
5. Develop plan sheets at 1"=20' scale.
  - a) Show property ownership / tract information
  - b) Provide construct notes
  - c) Indicate removals or Do Not Disturb (DND) for existing features in or adjacent to the construction limits
  - d) Show project stationing and add appropriate labels

6. Prepare curb profile sheets
  - a) Profiles will generally follow existing edges of roadway profile
7. Layout preliminary ADA ramps and sidewalk locations. Sidewalk design shall include the following sidewalk extensions to complete missing segments. Design to be completed using AIMS base files and aerial imagery.
  - a) Extend to the west, along both the north and south sides, to match existing sidewalks.
  - b) Extend sidewalk to east along south side to complete missing segment.
  - c) Extend wide sidewalk section to the north along project limits.
8. Complete preliminary storm drainage plans
9. Develop fence plans and details
10. Develop preliminary cross sections (at 25 feet intervals).
11. Layout construction limits, R/W, permanent easements and temporary construction easements.
12. Develop R/W and easement plan sheet.
13. Develop preliminary traffic replacement signal plan sheets, including layout of existing traffic signal system.
14. Develop preliminary signal interconnect plan sheets. Traffic signal interconnect plans include modification to the existing conduit runs located at the intersection. An additional conduit run will be added to the west to connect with the Greenwood Street traffic signal. Design to be completed using AIMS base files and aerial imagery.
15. Develop preliminary pavement marking and signage sheets.
16. Complete intersection lighting design and preliminary lighting plans per City of Olathe and Overland Park standards/specifications, depending on location and ownership. Lighting design will include photometric analysis.
17. Coordinate with Overland Park regarding impacts to the Storm Watch monitoring equipment.
18. Develop preliminary traffic control sheets.
19. Locate and insert current City Standard Details.
20. Develop quantities and engineer's opinion of probable construction cost for field check plans.
21. Complete quality control review (Field Check Plans).
22. Submit field check plans to City of Olathe in PDF format; City of Olathe will in turn submit to City of Overland Park and KDOT.
23. Prepare preliminary color utility coordination plans to be submitted to utility companies. These plans will show existing facilities as located in the field and/or supplemented with information provided by utilities

#### **TASK 6 – Office Check Plans**

##### **Office Check Plan Assumptions:**

1. Does NOT include preparation of a NPDES/NOI permit or project specific Storm Water Pollution Prevention Plan (SWPPP) since disturbance area is assumed to be less than 1 acre

##### **Office Check Plan Tasks:**

1. Address Field Check Comments
2. Finalize typical section, general notes, plan and curb profile sheets.
3. Develop project specific erosion and sediment control plans.
4. Develop intersection layout plan sheets.
5. Develop landscape plans for median areas disturbed by turn lane additions. Assumes NO irrigation design or plans.
6. Complete detailed ADA ramp design and plan sheet layout.
7. Finalize traffic signal plans with wiring diagrams. Included lighted Street Name Signs on mast arms.
8. Develop any interconnect modification plan sheets. Assumes only layout of interconnect conduit plan. No detailed fiber interconnect design.
9. Complete City of Overland Park traffic engineering standard detail sheets.

10. Finalize street lighting plans sheets with wiring diagrams, including voltage drop calculations will be completed.
11. Finalize cross sections and complete earthwork calculations. Assumes no phased earthwork will be provided.
12. Finalize and adjust easement documents (two estimated).
13. Develop traffic control plans.
14. Develop office check plan set.
15. Develop project specifications.
16. Update and develop office check construction quantities.
17. Prepare quantity recap tables for all itemized quantities
18. Develop office check engineer's opinion of probable construction cost.
19. Quality control review (Office Check Plans).
20. Make updates and submit office check plans to City of Olathe in PDF format; Olathe will in turn submit to City of Overland Park and KDOT.
21. Distribute updated utility coordination plans to utility companies. Compile provided utility relocation information onto a final color utility coordination plan set.

## **TASK 7 – Public Involvement**

### **Public Involvement Assumptions:**

- City of Olathe to schedule and arrange public meeting location.
- Public meeting location to be determined.
- City to coordinate and prepare distribution list.
- City to send notifications of public meeting to stakeholders and new agencies.

### **Public Involvement Tasks:**

1. Coordinate with City to schedule two (2) public meetings – Field Check and Meet the Contractor.
2. Develop project notification letters to send to pipeline companies. City of Olathe to send to pipeline companies.
3. Public meeting preparation (1 meeting). Benesch to prepare open house display materials. Assumes open house format with no presentation. Assumes preparation for Meet the Contractor meeting will be completed by contractor.
4. Attend Public Meetings (1<sup>st</sup> meeting during design; 2<sup>nd</sup> meeting with selected contractor). Two Benesch representatives will attend public meetings. Assumes a two-hour meeting.

## **TASK 8 – Final PS&E Plans**

1. Address Office Check Comments
2. Develop final PS&E plans, including traffic signal plans.
3. Finalize Overland Park traffic engineering standard detail sheets.
4. Develop final project specifications.
5. Prepare status of utilities form for bidding.
6. Update and develop final construction quantities.
7. Develop final engineer's opinion of probable construction cost.
8. Quality control review (PS&E Plans).
9. Prepare project bid documents.
10. Submit PS&E plans to City of Olathe in PDF format; Olathe will submit to City of Overland Park and KDOT.

## **TASK 9 – Bid Phase Services**

1. Answer bidders' questions and prepare addendum(s).
2. Attend bid opening.



## **TASK 10 – Construction Phase Services**

1. Be available for discussion and consultation during the construction phase, but construction inspection (LPA) services will be the responsibility of the City.
2. Review shop drawings and be available for consultation with the City during construction. Assumes limit shop drawing review. City will review majority of submittals, including traffic signal, fiber optic, street lighting, pavement marking, paving materials and mix designs.
3. Prepare final Record drawings per notes provided by City. Record drawings will be prepared in AutoCAD.

## **CLIENT SHALL PROVIDE/COMPLETE:**

1. City to provide most recent traffic signal example plan set, including illuminated sign and pole specifications.
2. City to provide latest City water and sewer utility information.
3. City standard specifications and bid package information.
4. R/W appraisals and negotiations to be completed by the City of Olathe.
5. City to provide GIS data for project area (per separate request).
6. City to provide pipeline company contact information.
7. City to provide latest utility company contact information.
8. City of Overland Park to provide previous bike lane plans and details.
9. City of Overland Park to provide as-built, or if not available construction, signal plans.
10. City of Overland Park to provide current signal phasing and timing information.
11. City to mail public meeting notices and advertisement.
12. City to schedule and arrange public meetings.

## **PRELIMINARY SCHEDULE**

Notice to Proceed	February 19, 2020 (estimated)
Topographic Survey Complete	March 20, 2020
Submit Concept Plans	April 17, 2020
Field Check Plans	July 3, 2020
Right of Way Documents	October 30, 2020
Office Check Plans	December 18, 2020
Submit Final PSE Documents	April 1, 2021
Bidding/Letting (Estimated)	July 2021
Contract Award / Early NTP (Order Poles)	September 2021
Construction NTP	February 2022

## **COMPENSATION**

Work completed by the Consultant for the above scope of services shall be compensated at an Amount Not-To-Exceed Three Hundred Fifty-Three Thousand, Eight Hundred Dollars (\$353,800.00).

**EXHIBIT C**  
**Fee & Rate Schedule**

**EXHIBIT C**

Project Name: 135th and Pflumm Rd Intersection Improvements  
 Client Name: Olathe, KS  
 Client Project No: PN 3-C-110-20  
 Date Prepared: 1/31/2020  
 Prepared By: Jussel



	Personnel	Proj Principal	Proj Mngr	Sr. Tech	Designer II	Sr. Surveyor	Surveyor	Party Chief	Direct Expenses	Mileage (mi)	Total
	2020 Billing Rate	\$240.00	\$180.00	\$120.00	\$105.00	\$145.00	\$115.00	\$108.00	\$ 1.00	\$ 0.575	
<b>Task 1 - General Tasks</b>											
1.1 Kickoff Meeting	2	4								50	\$1,229
1.2 Coordination meeting with surveyor		2				2					\$650
1.3a Attend five(5) project meetings		15			10					250	\$3,894
1.3e Attend three (3) utility coordination meetings		6			6						\$1,710
1.4 Attend two (2) meetings with KDOT		4			4					100	\$1,198
1.5 Prepare design criteria memorandum		10									\$1,800
1.6 Internal bi-weekly meetings		14	7	7							\$4,095
1.7 Project Management/Administration		240									\$43,200
HOURS SUBTOTAL	2	295	7	27	2	0	0	0	0	400	
COST SUBTOTAL	\$480.00	\$53,100.00	\$840.00	\$2,835.00	\$290.00	\$0.00	\$0.00	\$0.00	\$0	\$230	\$57,775.00
<b>Task 2 - Traffic Analysis</b>											
2.1 Intersection Turning Movement Counts		2		4					\$300		\$1,080
2.2 Traffic Volume Development		2		8							\$1,200
2.3 Review and evaluate potential development traffic		2		10							\$1,410
2.4 Capacity Analysis		6		16							\$2,760
2.5 Traffic Memorandum		16		12							\$4,140
2.6 QC/QA traffic analysis documents	2	2									\$840
HOURS SUBTOTAL	2	30	0	50	0	0	0	0	300	0	
COST SUBTOTAL	\$480.00	\$5,400.00	\$0.00	\$5,250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$300	\$0	\$11,430
<b>Task 3 - Conceptual Layout</b>											
3.1 Develop one (1) preliminary turn lane concepts		2	12	4							\$2,220
3.2 Sidewalk Extensions & Entrance Changes		2	12	4							\$2,220
3.3 Attend one (1) meeting with Phillips 66 stakeholder.		2		2						50	\$599
3.4 Attend one (1) meeting with Magellan stakeholder.		2		2						50	\$599
3.5 Estimate R/W impacts for each concept, if any		2	8								\$1,320
3.6 QC/QA concept documents	2	0									\$480
HOURS SUBTOTAL	2	10	32	12	0	0	0	0	0	100	
COST SUBTOTAL	\$480.00	\$1,800.00	\$3,840.00	\$1,260.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0	\$58	\$7,438
<b>Task 4 - Topographic Survey</b>											
4.1a Topographic field survey						20	20		\$500	400	\$5,190
4.1b Survey storm sewer manholes & inlets						7	7				\$1,561
4.1c Data processing and base file development						24					\$2,760
4.1d Utility coordination & information						4	4			200	\$1,007
4.1e Contact utility companies record drawings					2						\$290
4.1f Signal equipment survey		2				4	4				\$1,252
4.1g Locate section corners & R/W control						3	3		\$250	200	\$1,034
4.1h Establish horiz. & vertical control					8	8			\$100	200	\$2,295
4.2 Order and review title work					8						\$1,160
4.3 Tract Map & Legal Descriptions (TCE & R/W)		2				16					\$2,200
4.4 Supplement with GIS Data		2				4					\$820
4.5 Review existing development plans		2				4					\$820
4.6 Prepare base maps		4	8								\$1,680
4.7 Coordinate with Olathe & Overland Park for mill limits		2									\$360
4.8 Complete offset staking for utilities		2				20	20			200	\$4,935
HOURS SUBTOTAL	0	16	8	0	18	114	58		850	1200	
COST SUBTOTAL	\$0.00	\$2,880.00	\$960.00	\$0.00	\$2,610.00	\$13,110.00	\$6,264.00		\$850	\$690	\$27,364

	Personnel 2020 Billing Rate	Proj Principal \$240.00	Proj Mngr \$180.00	Sr. Tech \$120.00	Designer II \$105.00	Sr. Surveyor \$145.00	Surveyor \$115.00	Party Chief \$108.00	Direct Expenses \$ 1.00	Mileage (mi) \$ 0.575	Total
<b>Task 5 - Field Check Plans</b>											
5.1 Develop typical sections				2							\$240
5.2 Develop general notes			2	4							\$840
5.3 Survey reference sheet				4		2					\$770
5.4 Set proposed / existing horizontal and vertical alignments			4	28	12						\$5,340
5.5 Develop plan sheets (1"=20' scale)			6	40	20						\$7,980
5.6 Prepare curb profile sheets			8	32	24						\$7,800
5.7 Layout preliminary ADA ramps and sidewalk extensions			4	20	20						\$5,220
5.8 Complete preliminary storm drainage plans			4	16	20						\$4,740
5.9 Develop fence plans			2	8	4						\$1,740
5.10 Develop preliminary cross sections (25' intervals)			2	24	8						\$4,080
5.11 Layout construction limits, R/W and TCE				16	8						\$2,760
5.12 Develop R/W and Easement Plan Sheet			4	20	12						\$4,380
5.13 Develop preliminary traffic signal plan sheets			24	40	12						\$10,380
5.14 Develop preliminary interconnect plans			4	16	16						\$4,320
5.15 Develop preliminary pavement marking and signage sheets			4	12	24						\$4,680
5.16 Complete intersection lighting design and sheets			16	24	24						\$8,280
5.17 Coordinate with Overland Park Storm Watch equipment			4		4						\$1,140
5.18 Develop preliminary traffic control sheets			4	8	20						\$3,780
5.19 Locate and insert City Standard Details			2	8	8						\$2,160
5.20 Develop field check plan quantities and cost estimate			4	32	12						\$5,820
5.21 QC/QA Review	4	4									\$1,680
5.22 Print and submit field check plans			2	8	8						\$2,160
5.23 Prepare Utility Plans (Colored Utilities)			2	24	12						\$4,500
HOURS SUBTOTAL	4	106	386	268	2	0	0	0	0	0	
COST SUBTOTAL	\$960.00	\$19,080.00	\$46,320.00	\$28,140.00	\$290.00	\$0.00	\$0.00	\$0	\$0		<b>\$94,790</b>
<b>Task 6 - Office Check Plans</b>											
6.1 Address field check comments			8	40	32						\$9,600
6.2 Finalize typical sections, gen notes, plan and curb sheets			2	20	12						\$4,020
6.3 Develop project specific erosion and sediment control plans			4	16	24						\$5,160
6.4 Develop intersection layout plan sheet(s)			4	16	12						\$3,900
6.5 Develop landscape plans			8	16							\$3,360
6.6 Complete ADA ramp design and plan sheet layout			4	24	10						\$4,650
6.7 Finalize traffic signal plans with wiring diagrams			8	32	24						\$7,800
6.8 Finalize interconnect plans			4	20	16						\$4,800
6.9 Complete Overland Park traffic engineering details			4	8	16						\$3,360
6.10 Finalize street lighting plan sheets with wiring diagrams			4	16	20						\$4,740
6.11 Finalize cross sections and earthwork calculations			2	24	24						\$5,760
6.12 Finalize and adjust up to 2 easement documents			1			8					\$1,340
6.13 Develop traffic control plans			2	12	20						\$3,900
6.14 Develop office check plan set			2	24	20						\$5,340
6.15 Develop project specifications			16		12						\$4,140
6.16 Develop office check quantities			2	24	16						\$4,920
6.17 Prepare quantity recap tables of all itemized quantities			2	16	16						\$3,960
6.18 Develop office check cost estimate			4		16						\$2,400
6.19 Quality Control Review (Office Check Plans)	4	4									\$1,680
6.20 Make updates and submit office check plans			2	20	16						\$4,440
6.21 Distribute updated utility coordination plans				12	4						\$1,860
HOURS SUBTOTAL	4	87	340	310	8	0	0	0	0	0	
COST SUBTOTAL	\$960.00	\$15,660.00	\$40,800.00	\$32,550.00	\$1,160.00	\$0.00	\$0.00	\$0	\$0		<b>\$91,130</b>

	Personnel	Proj Principal	Proj Mngr	Sr. Tech	Designer II	Sr. Surveyor	Surveyor	Party Chief	Direct Expenses	Mileage (mi)	Total
	2020 Billing Rate	\$240.00	\$180.00	\$120.00	\$105.00	\$145.00	\$115.00	\$108.00	\$ 1.00	\$ 0.575	
<b>Task 7 - Public Involvement</b>											
7.1	Coordinate with City for two (2) public meetings		4								\$720
7.2	Develop project notification letters for pipeline stakeholders		2		2						\$570
7.3	Public meeting preparation (1 meeting)		8	16	4						\$3,780
7.4	Attend two (2) public meetings		4		4					200	\$1,255
	HOURS SUBTOTAL	0	18	16	10	0	0	0	0	200	
	COST SUBTOTAL	\$0.00	\$3,240.00	\$1,920.00	\$1,050.00	\$0.00	\$0.00	\$0.00	\$0	\$115	<b>\$6,325</b>
<b>Task 8 - PS&amp;E Plans</b>											
8.1	Address Office Check Plan Comments		4	24	16						\$5,280
8.2	Develop final PS&E plans		4	32	24						\$7,080
8.3	Finalize Overland Park standard details		2	8	10						\$2,370
8.4	Develop final project specifications		12		32						\$5,520
8.5	Prepare status of utilities from for bidding		8		16						\$3,120
8.6	Update and develop final construction quantities		2	20	20						\$4,860
8.7	Develop final cost estimate		4		16						\$2,400
8.8	Submit final easement documentation to City		2			4					\$940
8.9	Quality control review (PS&E Plans)	4	4								\$1,680
8.10	Print and submit PS&E plans		2	16	8						\$3,120
	HOURS SUBTOTAL	4	44	100	142	4	0	0	0	0	
	COST SUBTOTAL	\$960.00	\$7,920.00	\$12,000.00	\$14,910.00	\$580.00	\$0.00	\$0.00	\$0	\$0	<b>\$36,370</b>
<b>Task 9 - Bid Phase Services</b>											
9.1	Answer bidder's questions and prepare addendums		16		8						\$3,720
9.2	Attend bid opening		2							50	\$389
	HOURS SUBTOTAL	0	18	0	8	0	0	0	0	50	
	COST SUBTOTAL	\$0.00	\$3,240.00	\$0.00	\$840.00	\$0.00	\$0.00	\$0.00	\$0	\$29	<b>\$4,109</b>
<b>Task 10 - Construction Phase Services</b>											
10.1	Consultation during construction		24	32	16						\$9,840
10.2	Review Shop Drawings		8	4	6						\$2,550
10.3	Prepare final Record Drawings		8	20	8						\$4,680
	HOURS SUBTOTAL	0	40	56	30	0	0	0	0	0	
	COST SUBTOTAL	\$0.00	\$7,200.00	\$6,720.00	\$3,150.00	\$0.00	\$0.00	\$0.00	\$0	\$0	<b>\$17,070</b>

**TOTAL PROJECT DESIGN FEE ESTIMATE = \$353,800**

# STANDARD HOURLY RATES SHEET

CLASSIFICATION	BILLABLE RATE
PROJECT MANAGER I	\$140.00
PROJECT MANAGER II	\$165.00
SENIOR PROJECT MANAGER	\$180.00
PROJECT PRINCIPAL	\$240.00
DESIGNER I	\$91.00
DESIGNER II	\$105.00
PROJECT ENGINEER I	\$115.00
PROJECT ENGINEER II	\$130.00
SENIOR PROJECT ENGINEER	\$150.00
TECHNOLOGIST I	\$61.00
TECHNOLOGIST II	\$77.00
SENIOR TECHNOLOGIST	\$120.00
TECHNICAL SPECIALIST I	\$90.00
TECHNICAL SPECIALIST II	\$100.00
SENIOR TECHNICAL SPECIALIST	\$130.00
CONSTRUCTION REPRESENTATIVE I	\$78.00
CONSTRUCTION REPRESENTATIVE II	\$90.00
CONSTRUCTION REPRESENTATIVE III	\$110.00
INSPECTOR I	\$70.00
INSPECTOR II	\$80.00
SR. INSPECTOR	\$85.00
PROJECT SCIENTIST I (GEOTECH)	\$66.00
PROJECT SCIENTIST II (GEOTECH)	\$79.00

CLASSIFICATION	BILLABLE RATE
FIELD/LAB TECHNICIAN I	\$54.00
FIELD/LAB TECHNICIAN II	\$61.00
FIELD/LAB TECHNICIAN III	\$71.00
SENIOR FIELD/LAB TECHNICIAN	\$93.00
INSTRUMENT OPERATOR	\$56.00
PARTY CHIEF	\$108.00
SURVEYOR (RLS)	\$115.00
SENIOR SURVEYOR (RLS)	\$145.00
SCIENTIST I	\$64.00
SCIENTIST II	\$73.00
PROJECT SCIENTIST I (ENVIR.)	\$90.00
PROJECT SCIENTIST II (ENVIR.)	\$110.00
PROJECT SCIENTIST III (ENVIR.)	\$120.00
SENIOR PROJECT SCIENTIST	\$136.00
INTERN	\$56.00
MARKETING ASSISTANT	\$56.00
MARKETING COORDINATOR	\$77.00
MARKETING MANAGER	\$108.00
OFFICE ASSISTANT	\$50.00
PROJECT ASSISTANT I	\$57.00
PROJECT ASSISTANT II	\$63.00
DIVISION ADMIN ASSISTANT I	\$57.00
DIVISION ADMIN ASSISTANT II	\$70.00

*Rates are good until December 31, 2020*

## EXHIBIT D

### LAND ACQUISITION CHECKLIST FOR CONSULTANT PROJECTS

**Complete submittal of these documents is required 7 months prior to bid opening.**

- \_\_\_ Determine what types of easements are required for each tract:
  - i.e. Street Dedication; Permanent Street Easement; Temporary Construction Easement; Permanent Utility Easement; Permanent Drainage Easement; Permanent Sanitary Sewer Easement; Permanent Waterline Easement; Permanent Sidewalk & Utility Easement; Permanent Wall Easement; Permanent Bike Trail, Utility & Recreational Easement.
  
- \_\_\_ REQUIRED INFORMATION:
  - a) City Project No. and Project Name
  - b) Current Ownership (both husband and wife's name, even if only owned by one spouse)
    - 1) If a trust, the name and date of the trust
    - 2) If a corporation or LLC, state of incorporation or formation
    - 3) If partnership, full name of partnership
  - c) Johnson County Parcel ID number
  - d) Number the tracts in the project (up one side and down the other) (Tract No. \_\_)
  - e) Situs Address
  - f) Mailing Address
  - g) Legal description of the new taking, including total square footage
  - h) Tract map
  - i) Ownership & Encumbrance (O&E) title report, not more than 9 months since certification, showing current ownership, liens, mortgages, existing easements, leases (if recorded) and any other encumbrances upon the property. This requirement also includes tracts where only a temporary construction easement is needed.
  - j) Copy of last deed(s) of record. If an undivided interest is conveyed in the deed, provide copies of all deeds which comprise the whole interest. (If undivided one-half is conveyed to husband's trust and undivided one-half interest is conveyed to wife's trust, provide copies of both deeds.
  - k) Common errors to avoid – verify marital status. *BEFORE SUBMITTING DOCUMENTS TO CITY OF OLATHE VERIFY THE O&E'S TO ENSURE OWNERSHIP HAS NOT CHANGED.*

\_\_\_\_ Tract Map will be considered complete when it contains the following information (example available upon request):

- a) Map of entire property (May not be possible on large parcels and still showing legible taking) showing location of the proposed easement(s) and existing easements. Any trees to be removed, fences to be moved, monument signs, and irrigation systems should be noted on the plans. Outlines of buildings are to be shown on the plans so that it is evident how close the easements are to the existing building. Dimensions/bearings for easements to be clearly shown on map. It is acceptable to place all easements on one exhibit as long as each easement is easily identified. If the exhibit is too cluttered, then the easements should be placed on separate exhibits with permanent easements on one exhibit and temporary easements on a separate exhibit. EASEMENT SHALL BE CLEARLY VISIBLE ON DRAWING. Johnson County Register of Deeds scans the recorded easement in black and white, so be aware of this when drawing the easement on the tract map. Make sure easement area can easily be seen in black and white.
- b) Property owner's names, mailing address, situs address (if different from mailing address), Johnson County Parcel ID number, and tract number.
- c) Map of tract should show dimensions of tract and property lines clearly marked.
- d) Common errors to avoid: North arrow pointing in the wrong direction, verification that the easement legal description closes upon itself.

\_\_\_\_ Legal description and tract maps shall be signed by a Registered Land Surveyor stating that the ownership, easement legal descriptions, description in the deed for the entire tract only when a total property taking is occurring, and surveys for the easement area have been personally reviewed and determined to be accurate in accordance with the plans for the project. The consultant shall make corrections, at no cost to the City, to fix errors determined by the City or the Johnson County Register of Deeds that are the responsibility of the Registered Land Surveyor. These errors may include but are not limited to clerical errors, inconsistencies between the easement legal description and tract map, easement legal description not closing upon itself, or other errors in requirements on this checklist. **Both legal description and tract map(s) shall be marked Exhibit "A" as referenced in the easement documents.**

\_\_\_\_ Appropriate easement document in Word (sometimes referred to as "front end" document). PDF's are available on the City's website (<http://www.olatheks.org/government/public-works/dedications-easements>). Word copies can be obtained by contacting the Olathe Public Works Department Project Manager.



\_\_\_\_ Submit Documents to Public Works staff in electronic format:

- Word copy of legal description
- PDF of signed and sealed legal description
- Tract map signed and sealed
- Word copy of easement ("front end") document
- O&E title report
- Last deed of record

**EXHIBIT E**  
**CITY OF OLATHE INSURANCE REQUIREMENTS**

**A.** Consultant shall procure, and maintain as required, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the project. The cost of such insurance shall be included in the Consultant's bid.

**B.** Consultant shall maintain the following coverages and minimum limits.

1. Commercial General Liability (CGL): [ISO "occurrence" form or its equivalent] \$1,000,000 per occurrence limit including personal and advertising injury and products - completed operations. Any general aggregate limit should be at least \$2,000,000.
2. Business Auto Coverage: (*Owned and non-owned autos*) \$500,000 per occurrence, combined single limit.
3. Workers Compensation and Employers Liability: Workers compensation limits as required by applicable state workers' compensation laws and employer's liability limits or equivalent of \$500,000/\$500,000/\$500,000.
4. Professional Liability: Minimum limits to be \$1,000,000 each claim / annual aggregate.
5. Coverage Limits. Coverage limits for General and Auto Liability exposures may be met by a combination of primary and umbrella policy limits.
6. Exposure Limits: The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of the Consultant nor has the City assessed the risk that may be applicable to Consultant. Consultant shall assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverages. The Consultant's insurance shall be primary and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Consultant.

**C.** Additional Insured. CGL and auto policies must be endorsed to include the City as additional insured for the project. Any and all coverage available to the named insured is applicable to the additional insured. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**D.** Verification of Coverage.

1. A certificate of insurance, listing the City as a certificate holder, accompanied by an additional insured endorsement or equivalent.
2. The insurance coverages are to be provided by Kansas authorized insurance companies with a Best's rating of at least A- VII. Those not meeting this standard must be approved by City.
3. Any self-insurance or self-insured retentions must be specified on the certificate of insurance. In addition, when self-insured the name, address, and telephone number of the claims office must be indicated on the certificate or separate attached document. Any and all deductibles or self-insurance in the above described coverages shall be the responsibility and at the sole risk of the Consultant.
4. When any of the foregoing insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage shall be submitted along with the application for final payment.
5. If any of the required policies provide coverage on a Claims-Made basis:
  - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - b. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.

**E.** Cancellation. Each insurance policy required shall not be suspended, voided, or canceled, except after

Consultant has provided thirty (30) days' advance written notice to the City.

**F. Sub-Consultants.** All coverages for sub-Consultants must meet all of the requirements stated herein.

**EXHIBIT F**  
**Certificate of Insurance**



ALFRBEN-01

CMURPHY

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/20/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Ames &amp; Gough</b> <b>859 Willard Street</b> <b>Suite 320</b> <b>Quincy, MA 02169</b>	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext): (617) 328-6555</b>		<b>FAX (A/C, No): (617) 328-6888</b>
	<b>E-MAIL ADDRESS: boston@amesgough.com</b>		
<b>INSURED</b> <b>Alfred Benesch &amp; Company</b> <b>11010 Haskell Avenue</b> <b>Suite 200</b> <b>Kansas City, KS 66109</b>	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A : Travelers Indemnity Co. of America A++, XV</b>		<b>25666</b>
	<b>INSURER B : Travelers Property Casualty Company of America</b>		<b>25674</b>
	<b>INSURER C : Phoenix Insurance Company A+, XV</b>		<b>25623</b>
	<b>INSURER D : Berkshire Hathaway Specialty Insurance Company</b>		<b>22276</b>
	<b>INSURER E :</b>		
<b>INSURER F :</b>			

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	630-0D870755	5/31/2019	5/31/2020	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	BA-0N614884	5/31/2019	5/31/2020	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>0</b>	X	X	ZUP-15P01416	5/31/2019	5/31/2020	EACH OCCURRENCE \$ <b>1,000,000</b> AGGREGATE \$ <b>1,000,000</b> \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y / N <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	UB-5K723986	5/31/2019	5/31/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
D	<b>Professional Liab</b>			47-EPP-305297-02	5/31/2019	5/31/2020	<b>Per Claim</b> <b>1,000,000</b>
D				47-EPP-305297-02	5/31/2019	5/31/2020	<b>Aggregate</b> <b>2,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: 135th Street Plumm Road in Olathe, KS Benesch PM: Jim Jussel City of Olathe, Kansas shall be listed as additional insured with respect to General, Auto and Umbrella Liability where required by written contract. General, Auto and Umbrella Liability is Primary & non-contributory. A Waiver of Subrogation and 30 Day Notice of Cancellation is provided in accordance with the policy terms and conditions.

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of Olathe</b> <b>100 E. Santa Fe Street</b> <b>Olathe, KS 66061</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED – AUTOMATIC STATUS IF REQUIRED BY WRITTEN CONTRACT (CONTRACTORS)**

This endorsement modifies insurance provided under the following:  
**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that:

- a. You agree in a written contract or agreement to include as an additional insured on this Coverage Part; and
- b. Has not been added as an additional insured for the same project by attachment of an endorsement under this Coverage Part which includes such person or organization in the endorsement's schedule;

is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. Only as described in Paragraph (1), (2) or (3) below, whichever applies:

(1) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

- (a) The Additional Insured – Owners, Lessees or Contractors – (Form B) endorsement CG 20 10 11 85; or
- (b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 10 01, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 10 01;

the person or organization is an additional insured only if the injury or damage arises out of "your work" to which the written contract or agreement applies;

- (2) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

- (a) The Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization endorsement CG 20 10 07 04 or CG 20 10 04 13, the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 07 04 or CG 20 37 04 13, or both of such endorsements with either of those edition dates; or

- (b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37, without an edition date of such endorsement specified;

the person or organization is an additional insured only if the injury or damage is caused, in whole or in part, by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; or

- (3) If neither Paragraph (1) nor (2) above applies:

- (a) The person or organization is an additional insured only if, and to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; and

- (b) Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether

## COMMERCIAL GENERAL LIABILITY

this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.

- b. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

(b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

- c. The additional insured must comply with the following duties:

(1) Give us written notice as soon as practicable of an "occurrence" or an offense which may

result in a claim. To the extent possible, such notice should include:

(a) How, when and where the "occurrence" or offense took place;

(b) The names and addresses of any injured persons and witnesses; and

(c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

(2) If a claim is made or "suit" is brought against the additional insured:

(a) Immediately record the specifics of the claim or "suit" and the date received; and

(b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.

(3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.

(4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**BLANKET ADDITIONAL INSURED – PRIMARY AND  
NON-CONTRIBUTORY WITH OTHER INSURANCE**

This endorsement modifies insurance provided under the following:  
BUSINESS AUTO COVERAGE FORM

**PROVISIONS**

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph a. and paragraph d. of this part **5. Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.



## EXCESS FOLLOW-FORM AND UMBRELLA LIABILITY INSURANCE

**THIS POLICY, IN PART, PROVIDES FOLLOW-FORM LIABILITY COVERAGE. COVERAGE WILL APPLY ON A CLAIMS-MADE BASIS WHEN FOLLOWING CLAIMS-MADE UNDERLYING INSURANCE.**

**COVERAGE WILL APPLY ON A DEFENSE-WITHIN-LIMITS BASIS WHEN FOLLOWING UNDERLYING INSURANCE UNDER WHICH DEFENSE EXPENSES ARE PAYABLE WITHIN, AND NOT IN ADDITION TO, THE LIMITS OF INSURANCE. WHEN FOLLOWING SUCH UNDERLYING INSURANCE, PAYMENT OF DEFENSE EXPENSES UNDER THIS POLICY WILL REDUCE, AND MAY EXHAUST, THE LIMITS OF INSURANCE OF THIS POLICY.**

**PLEASE READ THE ENTIRE POLICY CAREFULLY.**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED.**

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VI - DEFINITIONS.**

### **SECTION I - COVERAGES**

#### **A. COVERAGE A - EXCESS FOLLOW-FORM LIABILITY**

1. We will pay on behalf of the insured those sums, in excess of the "applicable underlying limit", that the insured becomes legally obligated to pay as damages to which Coverage A of this insurance applies, provided that the "underlying insurance" would apply to such damages but for the exhaustion of its applicable limits of insurance. If a sublimit is specified in any "underlying insurance", Coverage A of this insurance applies to damages that are in excess of that sublimit only if such sublimit is shown for that "underlying insurance" in the Schedule Of Underlying Insurance.
2. Coverage A of this insurance is subject to the same terms, conditions, agreements, exclusions and definitions as the "underlying insurance", except with respect to any provisions to the contrary contained in this insurance.
3. The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE.**
4. For the purposes of Paragraph 1. above:

- a. The applicable limit of insurance stated for the policies of "underlying insurance" in the Schedule Of Underlying Insurance will be considered to be reduced or exhausted only by the following payments:

- (1) Payments of judgments or settlements for damages that are covered by that "underlying insurance". However, if such "underlying insurance" has a policy period which differs from the policy period of this Excess Follow-Form And Umbrella Liability Insurance, any such payments for damages that would not be covered by this Excess Follow-Form And Umbrella Liability Insurance because of its different policy period will not reduce or exhaust the applicable limit of insurance stated for such "underlying insurance";
- (2) Payments of "medical expenses" that are covered by that "underlying insurance" and are incurred for "bodily injury" caused by an accident that takes place during the policy period of this Excess Follow-Form And Umbrella Liability Insurance; or

- b. To sue us on this insurance unless all of its terms have been fully complied with.
- 2. A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured. We will not be liable for damages that:
  - a. Are not payable under the terms of this insurance; or
  - b. Are in excess of the applicable limit of insurance.

An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### L. MAINTENANCE OF UNDERLYING INSURANCE

- 1. The insurance afforded by each policy of "underlying insurance" will be maintained for the full policy period of this Excess Follow-Form And Umbrella Liability Insurance. This provision does not apply to the reduction or exhaustion of the aggregate limit or limits of such "underlying insurance" solely by payments as permitted in Paragraphs 4.a.(1), (2) and (3) of **COVERAGE A – EXCESS FOLLOW-FORM LIABILITY of SECTION I – COVERAGES**. As such policies expire, you will renew them at limits and with coverage at least equal to the expiring limits of insurance. If you fail to comply with the above requirements, Coverage A is not invalidated. However, in the event of a loss, we will pay only to the extent that we would have paid had you complied with the above requirements.
- 2. The first Named Insured shown in the Declarations must give us written notice of any change in the "underlying insurance" as respects:
  - a. Coverage;
  - b. Limits of insurance;
  - c. Termination of any coverage; or
  - d. Exhaustion of aggregate limits.
- 3. If you are unable to recover from any "underlying insurer" because you fail to comply with any term or condition of the "underlying insurance", Coverage A is not invalidated. However, we will pay for any loss only to the extent that we would have paid had you complied with that term or condition in that "underlying insurance".

#### M. OTHER INSURANCE

This insurance is excess over any valid and collectible "other insurance" whether such "other insurance" is stated to be primary, contributing, excess, contingent or otherwise. This provision does not apply to a policy bought specifically to apply as excess of this insurance.

However, if you specifically agree in a written contract or agreement that the insurance provided to any person or organization that qualifies as an insured under this insurance must apply on a primary basis, or a primary and non-contributory basis, then insurance provided under Coverage A is subject to the following provisions:

- 1. This insurance will apply before any "other insurance" that is available to such additional insured which covers that person or organization as a named insured, and we will not share with that "other insurance", provided that the injury or damage for which coverage is sought is caused by an "event" that takes place or is committed subsequent to the signing of that contract or agreement by you.
- 2. This insurance is still excess over any valid and collectible "other insurance", whether primary, excess, contingent or otherwise, which covers that person or organization as an additional insured or as any other insured that does not qualify as a named insured.

#### N. PREMIUM

- 1. The first Named Insured shown in the Declarations is responsible for the payment of all premiums and will be the payee for any return premiums.
- 2. If the premium is a flat charge, it is not subject to adjustment except as provided in Paragraph 4. below.
- 3. If the premium is other than a flat charge, it is an advance premium only. The earned premium will be computed at the end of the policy period, or at the end of each year of the policy period if the policy period is two years or longer, at the rate shown in the Declarations, subject to the Minimum Premium.
- 4. Additional premium may become payable when coverage is provided for additional insureds under the provisions of **SECTION II – WHO IS AN INSURED**.

#### O. PREMIUM AUDIT

The premium for this policy is the amount stated in Item 5. of the Declarations. The premium is a flat

## UMBRELLA

charge unless it is specified in the Declarations as adjustable.

### **P. PROHIBITED COVERAGE – UNLICENSED INSURANCE**

1. With respect to loss sustained by any insured in a country or jurisdiction in which we are not licensed to provide this insurance, this insurance does not apply to the extent that insuring such loss would violate the laws or regulations of such country or jurisdiction.
2. We do not assume responsibility for:
  - a. The payment of any fine, fee, penalty or other charge that may be imposed on any person or organization in any country or jurisdiction because we are not licensed to provide insurance in such country or jurisdiction; or
  - b. The furnishing of certificates or other evidence of insurance in any country or jurisdiction in which we are not licensed to provide insurance.

### **Q. PROHIBITED COVERAGE – TRADE OR ECONOMIC SANCTIONS**

We will provide coverage for any loss, or otherwise will provide any benefit, only to the extent that providing such coverage or benefit does not expose us or any of our affiliated or parent companies to:

1. Any trade or economic sanction under any law or regulation of the United States of America; or
2. Any other applicable trade or economic sanction, prohibition or restriction.

### **R. REPRESENTATIONS**

By accepting this insurance, you agree:

1. The statements in the Declarations and any subsequent notice relating to "underlying insurance" are accurate and complete;
2. Those statements are based upon representations you made to us; and
3. We have issued this insurance in reliance upon your representations.

### **S. SEPARATION OF INSURED**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured shown in the Declarations, this insurance applies:

1. As if each Named Insured were the only Named Insured; and

2. Separately to each insured against whom claim is made or "suit" is brought.

### **T. WAIVER OR TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

1. If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us and the insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us, and with respect to Coverage A, the "underlying insurer", enforce them.

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against that person or organization, but only for payments we make because of an "event" that takes place or is committed subsequent to the execution of that contract or agreement by such insured.

2. Reimbursement of any amount recovered will be made in the following order:

- a. First, to any person or organization (including us or the insured) who has paid any amount in excess of the applicable limit of insurance;
- b. Next, to us; and
- c. Then, to any person or organization (including the insured and with respect to Coverage A, the "underlying insurer") that is entitled to claim the remainder, if any.

3. Expenses incurred in the process of recovery will be divided among all persons or organizations receiving amounts recovered according to the ratio of their respective recoveries.

### **U. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS INSURANCE**

1. Your rights and duties under this insurance may not be transferred without our written consent except in the case of death of an individual Named Insured.
2. If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**EXHIBIT G**  
**Certificate of Good Standing to Conduct Business in Kansas**

**STATE OF KANSAS**  
**OFFICE OF**  
**SECRETARY OF STATE**  
**SCOTT SCHWAB**

I, SCOTT SCHWAB, Secretary of State of the state of Kansas, do hereby certify, that according to the records of this office.

Business Entity ID Number: 4395133

Entity Name: ALFRED BENESCH & COMPANY

Entity Type: FOREIGN FOR PROFIT

State of Organization: IL

Resident Agent: CORPORATION SERVICE COMPANY

Registered Office: 2900 SW WANAMAKER DRIVE SUITE 204, TOPEKA, KS 66614

was filed in this office on March 01, 2010, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



In testimony whereof I execute this certificate and affix the seal of the Secretary of State of the state of Kansas on this day of January 31, 2020

**SCOTT SCHWAB**  
**SECRETARY OF STATE**

Certificate ID: 1125132 - To verify the validity of this certificate please visit <https://www.kansas.gov/bess/flow/validate> and enter the certificate ID number.